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# A Citizen's Guide To Site Assignment Regulations

*For Solid Waste Management Facilities  
[310 CMR 16.00]*

Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
Department of Environmental Quality Engineering  
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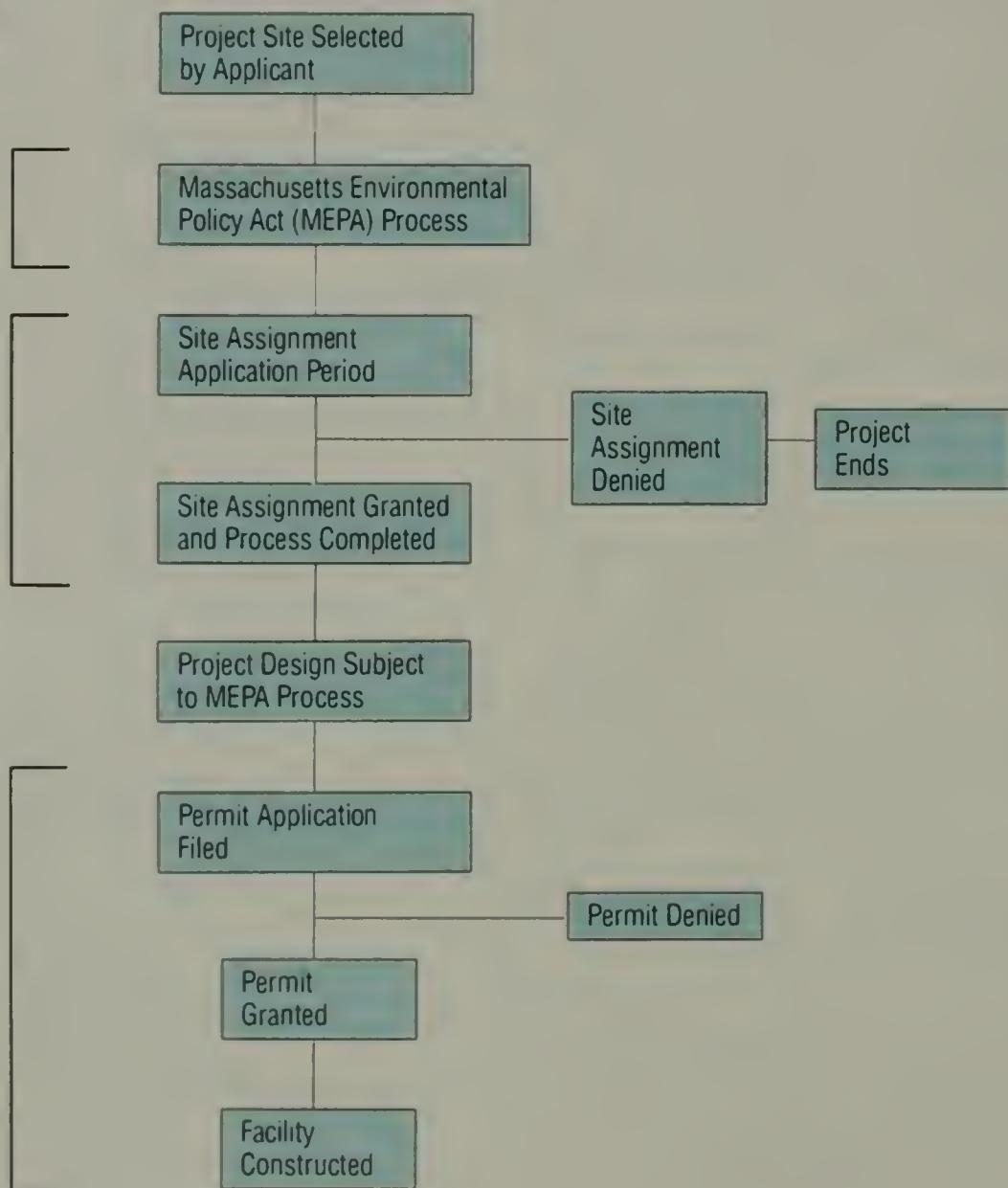
## DEQE Facility Permitting Process Summary

Responsible Agencies

MEPA

DEQE and Boards of Health

DEQE



This chart depicts the entire process from selecting a site to constructing a facility.

**S**olid waste facilities are like hospitals, prisons and public housing projects, in that finding a site for them is often controversial. Until recently, authority for approving sites was the responsibility of municipal boards of health. No statewide criteria existed to serve as a standard for local siting decisions and to ensure consistency. These factors along with increasingly complex environmental issues and heightened public concern have contributed to a situation in which it is very difficult to make siting decisions.

Recognizing the need to develop a more uniform and comprehensive statewide siting process, the Massachusetts Legislature, under the initiative of Governor Michael S. Dukakis, amended the state's solid waste siting laws (*M.G.L. Chapter 111 Section 150A*) with the passage of the Solid Waste Act of 1987, (*Chapter 584 M.G.L.*). The Act greatly expands the State's role in the siting process. It requires the Department of Environmental Quality Engineering (DEQE) to establish criteria for determining whether or not a site for a proposed solid waste facility constitutes a danger to public health, safety and the environment. DEQE is given new responsibilities in the site assignment process, including evaluation of site suitability based on the environmental criteria listed in the regulations. Also introduced in the new siting provisions are specific time limits for components of the site assignment process and public hearing requirements. Finally, the regulations provide for the Department of Public Health (DPH) to review applications and issue a report on possible public health implications.

DEQE's intent in drafting the Site Assignment For Solid Waste Facility Regulations is to develop a fair and open process ensuring that all parties concerned — the public, applicants, and boards of health — have reasonable opportunity to comment. The law and the new regulations are complex, therefore DEQE has prepared this Guide for municipal boards of health, applicants and the public. Major provisions of the regulations are summarized in this document. For more detailed information DEQE recommends reading the regulations (*310 CMR. 16.00*).

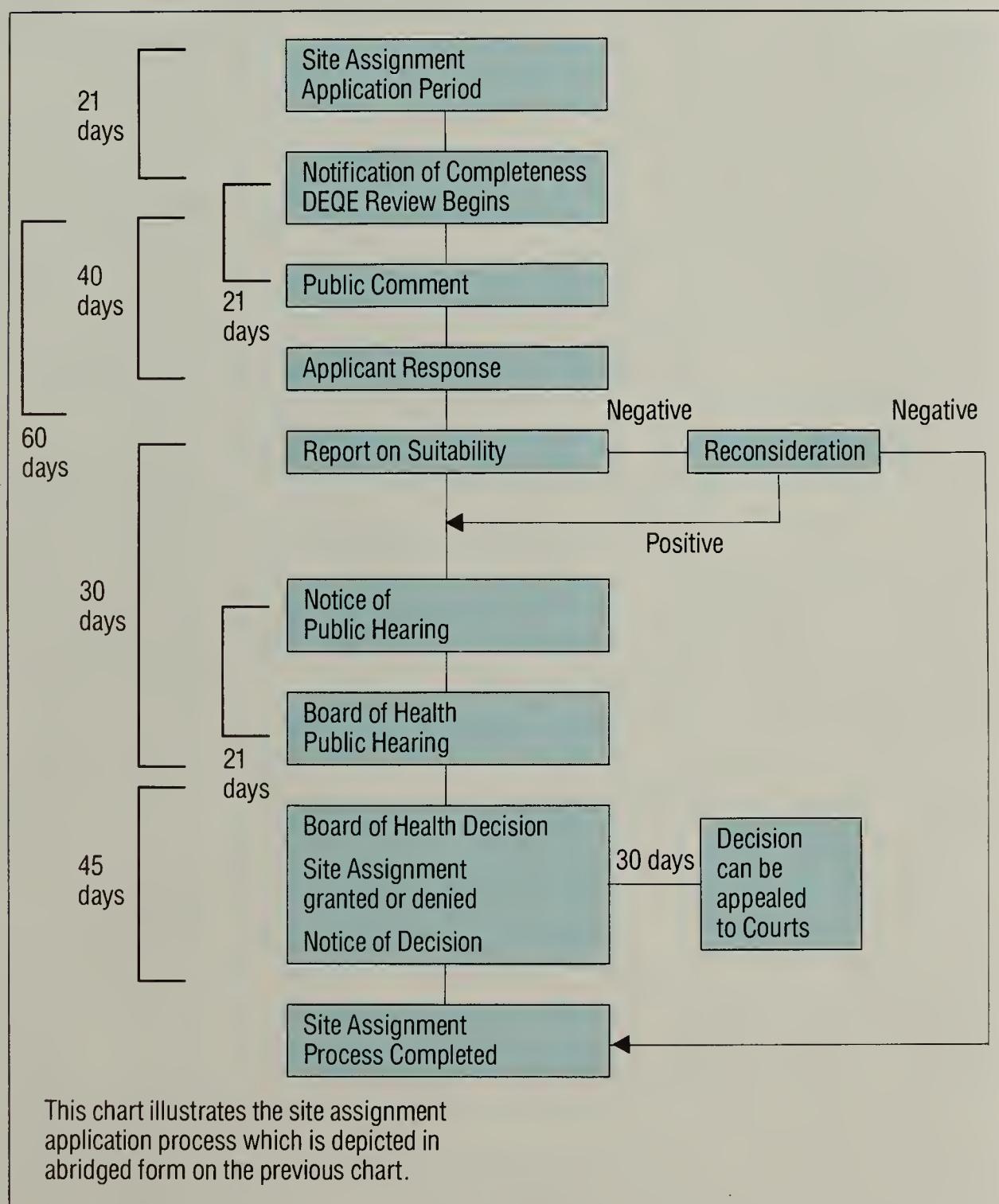
**A**ny person wishing to expand or establish a new site for a solid waste management facility such as a landfill, transfer station, recycling or waste combustion plant, must first obtain approval and assignment from the board of health for the proposed facility (an exception to this rule is a solid waste facility owned or operated by a state agency for which site assignment is granted by DEQE). To initiate this process, the applicant files a site assignment application with the board of health and sends copies to DEQE and DPH. The applicant may be charged a fee by the board of health to cover the costs of reviewing the application and holding a public hearing (see *Application Fee Section*).

An applicant must comply with the Massachusetts Environmental Policy Act (MEPA) process if the proposed facility exceeds a certain size threshold. MEPA review, a function of the Executive Office of Environmental Affairs, evaluates the environmental impacts of the site. For some projects this will simply entail review of an Environmental Notification Form. For other sites an Environmental Impact Report will be required depending on the environmental sensitivity of the site.

Upon receipt of an application, and review by MEPA (where applicable) the DEQE review process begins. DEQE begins by reviewing the application for completeness and notifies the applicant within twenty-one days whether the application is complete. Under the requirements of 310 CMR 16.11, DEQE will not consider an application until it is complete. Once DEQE determines all the necessary information has been supplied and the application is complete, the applicant provides public notice and notifies all neighbors to the site. The department's sixty day review period begins when this public notice is given.

During the initial twenty-one days of this sixty day review period, DEQE regional offices accept written comments from the board of health and interested parties regarding the application and the suitability of the site. The applicant may respond in writing to comments and make minor modifications to the application during the initial forty days of

## DEQE's Solid Waste Management Facility Site Assignment Process



the review period.

Using the environmental criteria established by these regulations, the Department issues its report on the site's suitability within the sixty day review period. If the Department reports that the site is unsuitable, the application process ends. A negative report by DEQE can be reconsidered within fourteen days of the determination if the applicant files a motion contesting the decision because

of overlooked or misunderstood facts. If DEQE's report is favorable, it is submitted to the board of health for further consideration.

DPH reviews a site assignment application and may make comments, either written or otherwise, as to potential adverse impacts of the site on public health and safety by the end of DEQE's sixty day review period.



**A**ccording to the regulations, the municipal board of health begins the public hearing thirty days after the receipt of the Department's favorable report of suitability. Twenty-one days prior to the public hearing, the board of health places a public notice in the local newspaper, giving the hearing day, time and location.

Public hearings are conducted by an independent hearing officer designated by the board of health. In addition to managing the hearing process, including the presentation of testimony, this officer may also serve as a negotiator between the applicant and the municipality. All hearing proceedings are recorded.

Two categories of individuals allowed participation at the public hearings are designated as parties and participants. Persons whom the hearing officer determine are specifically and substantially affected by the hearing are allowed to intervene and are eligible to be registered as parties. They may also pursue legal appeals in the future. A party can consist of an abutter or group of abutters to the

proposed facility. In addition, a group of ten citizens who wish to express their concern about environmental damage issues can be designated as a party.

The other category is one of participant. Any person affected by a proceeding shall be permitted to participate at the public hearing. Participation is limited to the right to present testimony, argue orally at the close of the hearing, and to file a brief. Participants, unless deemed otherwise, are not considered to be a party who may be aggrieved by any final decision.

Within forty-five days after the initial public hearing, the board of health determines if the site constitutes a danger to the public health, safety, and environment. In making its decision, the board considers the Department's report on suitability, public hearing testimony, the board of health technical evaluations report, and any additional technical information. All final decisions must be written and signed by a majority of those board of health officials making the decision. Within seven days of its decision, the board of health issues a public notice.

## APPLICATION FEES (Section 16.50-16.56)



**B**oards of health may charge an application fee to be paid by the applicant when the application is filed. The fee is used to defray costs of technical review of applications and conducting public hearings.

The technical review fee covers necessary costs of hiring experts to assist the board of health in reviewing the application and associated reports. Technical assistance covers legal costs associated with developing evidence and assisting the board at the hearing. The amount of the technical fee is limited in the regulations based upon the type and size of the facility. The board of health may use the

fee to pay for all technical review costs or for a portion of the technical assistance. The applicant is only responsible for covering fifty percent of technical assistance costs.

The second part of the application fee is the public hearing fee which covers the costs of conducting a public hearing such as recording and hearing officer costs, printing public notices, and renting a hall, if needed, to hold the hearing. Initially the board of health can charge the applicant a maximum of one half of the technical fee charged to cover the public hearing fee, but can require more payments as needed. Application fees not spent must be returned to the applicant.

(see chart on page 6 )



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(see chart on page 6 )

(continued from page 4)

DEQE recognizes the valuable input the public can provide during the siting process. The new provisions reflect this and contain considerable opportunity for the public to review and comment on proposed site selections for solid waste management facilities.

The first opportunity occurs during the MEPA process when the public can comment on an Environmental Notification Form and if applicable, on the Environmental Impact Report. In addition the public can comment during the DEQE review process and at the board of health public hearing. There is also a built-in appeal process to the courts if an aggrieved party feels the process was not conducted properly.

### Fee Schedule for Solid Waste Site Facility Assignment Applications

These technical fees are the maximum that may be charged each applicant by boards of health. The fee covers the board's costs for providing technical assistance and review of site assignment applications (DEQE's Site Assignment Regulations for Solid Waste Facilities). In addition to the technical fee, applicants are responsible for the boards of health public hearing costs.

### Landfills

Size (acres)	Maximum Technical Fee (see fee schedule below)
0-10	\$15,000
15	\$20,000
25	\$30,000
40	\$33,000
80	\$41,000

### Fee Schedule for landfills

Size (acres)	Fee
0-10	\$15,000
10-25	\$15,000 + \$1,000 × (acres-10)
>25	\$30,000 + \$200 × (acres-25)

### Waste Combustion Facilities

Capacity (tons/day)	Maximum Technical Fee (\$25,000 + \$10 × [capacity])
250	\$27,500
500	\$30,000
750	\$32,500
1000	\$35,000
1500	\$40,000

### Transfer Stations, Recycling Facilities, Composting Facilities

Capacity (tons/day)	Maximum Technical Fee (\$3,000 + \$20 × [capacity])
5	\$ 3,100
50	\$ 4,000
100	\$ 5,000
300	\$ 9,000
700	\$17,000

Bulk Rate  
U.S. Postage  
Paid  
Boston, MA  
Permit No. 58983

Department of  
Environmental  
Quality Engineering  
Division of  
Solid Waste Management  
1 Winter Street  
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